

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re Flint Water Cases.

Judith E. Levy
United States District Judge

_____/

This Order Relates To:

ALL CASES

_____/

**ORDER REGARDING MATTERS DISCUSSED AT THE
SEPTEMBER 25, 2019 STATUS CONFERENCE**

The Court held a status conference regarding its pending Flint water litigation on September 25, 2019. The Court now orders as follows:

I. Deposition Scheduling

The Court appointed counsel to develop a protocol to resolve the manner in which depositions will be scheduled and how questioning of witnesses will proceed when more than one party wishes to question a deponent. This group will propose an amendment to the Amended Case Management Order (ECF No. 889) and will submit the proposal by email on Tuesday October 8, 2019.

II. *In re* Flint Water Cases Discovery

The Court updated the parties on its discovery dispute protocol and will issue this protocol in its forthcoming Amended Case Management Order. Given the complexity of this litigation and the need to coordinate certain aspects of discovery, the Court also denied the request for Legionella Plaintiffs to serve their own non-party subpoenas without requiring Interim Lead Counsel, Co-Liaison Counsel, and/or any Defendants to join as a signatory.

III. Motion to Strike Class Allegations

VNA and MDEQ Defendants have requested a hearing on the Motion to Strike the Proposed Classes. (ECF No. 914.) This matter has been fully briefed, and the Court will hear oral argument on the motion during the November 6, 2019 status conference.

IV. Master and Short Form Complaint

During the status conference the Court addressed and ruled on the following issues raised by the parties relating to the Master and Short Form Complaints. First, the Court set a briefing schedule on the issue of whether Defendant Liane Shekter Smith's name is to be removed from the Amended Short Form Complaints. Counsel for Shekter Smith may submit a brief on this issue by October 9, 2019. Any responses to the

motion will be due on October 16, 2019, with replies due October 23, 2019. Shekter Smith is not required to answer related Flint Water complaints until this issue is resolved.

Second, in cases with Short Form Complaints alleging legionella-related injuries, the Court ordered that answers or responsive pleadings need not be filed until the Court reaches a decision in *Marble v. Snyder*, 17-cv-12942 and *Brown v. Snyder*, 18-cv-10726. Finally, the Court ruled that Defendants need not answer or otherwise respond to portions of Short Form Complaints incorporating causes of action from the Master Long Form Complaint, *Walters v. Flint*, 17-cv-10164 (ECF No. 115), that are no longer alleged in the Amended Master Complaint. *Id.* (ECF No. 185-2.) If plaintiffs wish to allege a new cause of action or include additional defendants, they must do so in the indicated spaces on the Short Form Complaints.

V. Non-Parties at Fault Filings

The Court will allow notices of non-party at fault filings in individual cases to be filed as short form documents referencing the two Notices of Non-Party at Fault filed in *Walters v. Flint*, 17-cv-10164 (ECF No. 173) and *Sirls v. Michigan*, 17-cv-10342 (ECF No. 119.) Counsel for

VNA Defendants will submit proposed language detailing this procedure, and once approved, it will be included in the Amended Case Management Order.

VI. Scheduling of Next Status Conference

The next status conference will be held on **November 6, 2019 at 2:00pm** in Ann Arbor, Michigan. Parties are to file proposed agenda items in Case No. 16-cv-10444 by **October 23, 2019**. Individual liaison counsel should collect proposed agenda items from all counsel representing individual plaintiffs and submit those proposed items as a single filing. The Court will issue an agenda by **October 30, 2019**.

IT IS SO ORDERED.

Dated: September 27, 2019
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on September 27, 2019.

s/Shawna Burns
SHAWNA BURNS
Case Manager